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LB 806

Revision: 02

Revised due to adoption of amendment on Select File

# FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

| ESTIMATE OF FISCAL IMPACT – STATE AGENCIES * |              |             |              |             |
|--|--------------|-------------|--------------|-------------|
|  | FY 2012-13   |             | FY 2013-14   |             |
|  | EXPENDITURES | REVENUE     | EXPENDITURES | REVENUE     |
| GENERAL FUNDS                                |              | (\$179,000) |              | (\$180,000) |
| CASH FUNDS                                   | \$62,075     | \$444,850   | \$52,575     | \$52,000    |
| FEDERAL FUNDS                                |              |             |              |             |
| OTHER FUNDS                                  |              |             |              |             |
| TOTAL FUNDS                                  | \$62,075     | \$265,850   | \$52,575     | (\$128,000) |

\*Does not include any impact on political subdivisions. See narrative for political subdivision estimates.

LB 806, as amended by AM 1852, AM2687, and AM 2708, amends Nebraska Revised Statutes Sections 2-1203.01 and 2-1215 to authorize the State Racing Commission to license and regulate pari-mutuel wagering on historic horseraces.

The bill as amended now defines "Historic horserace" to mean a form of horserace that creates a parimutuel pool from wagers placed on a horserace previously held.

As part of the regulation of historic horseracing, LB 806 provides that the Commission shall require enough of the historic horserace to be televised so as to maintain the integrity of such horserace before another wager takes place or before beginning another historic horserace.

The bill also makes using a device for parimutuel wagering on historic horseraces outside of a licensed racetrack enclosure a Class III misdemeanor.

LB 806 imposes a one-time licensing fee of \$1,000 for each machine used for parimutuel wagering on historic horseraces. This fee is collected by the Commission, remitted to the Treasurer and credited to the Historic Horseracing Distribution Fund, which is created by the bill, and is to be administered by the Department of Revenue. Administrative costs of the Department of Revenue are to be paid from the new fund.

The bill, as amended by AM 1852, now requires a tax on the gross sum wagered on historic horseraces "in lieu of" rather than "in addition to" any other tax imposed on a licensed racetrack under sections 2-1201 to 2-1242. The tax is 1% of the first \$100 million of collected receipts, 1.5% on receipts over \$100 million and up to and including \$200 million, and 2% on any additional amounts over \$200 million. The revenue collected from this tax is to be paid to the Department of Revenue and remitted to the State Treasurer for credit to the Historic Horseracing Distribution Fund.

In addition, as amended, the bill imposes an additional tax in that (a) if the racetrack enclosure is not located within the corporate limits of a city, then the track must remit an additional 0.1% of the gross sum wagered on historic horseracing to the county treasurer of the county where the track is located for credit to the county's general fund, or (b) if the track is located within the corporate limits of a city, then the racetrack must remit an additional 0.05% of the gross sum wagered to the county treasurer for credit to the county's general fund and another 0.05% of the gross sum wagered to the city treasurer for credit to the city's general fund.

The bill, as amended by AM 2687, adds language providing that if any "court of competent jurisdiction" determines that the authorization of historic horseracing allows for additional Class III gaming (other than historic horseracing) as defined and permitted by the Indian Gaming Regulatory Act, then any license issued by the State Racing Commission for historic horseracing terminates one year from the date of that court's final order.

AM 2687 also provides for a four year sunset clause for the authorization of historic horseracing unless the State Racing Commission determines the following:

- A racetrack enclosure is located in a county that has a city of the primary class; and
- Historic horseracing has been continuously offered by the racetrack for four years beginning from the first day historic horseracing is authorized by the State Racing Commission; and
- If the county in which the racetrack is located does not have a city of the metropolitan class, the racetrack has demonstrated a 30% increase in the days of live horseraces compared to 2011, or if the county in which the racetrack is located does have a city of the metropolitan class, the racetrack has demonstrated a 40% increase in the days of live horseraces compared to 2011.

As amended by AM 2708, after the Department deducts administrative costs, one-half of the revenue credited to the Historic Horseracing Distribution Fund is to be credited to the State Racing Commission Cash Fund to be used by the Racing Commission for "programs which facilitate equine therapy for youth and veterans and programs which promote equine and equestrian activities in Nebraska," and one-half to the Compulsive Gamblers Assistance Fund.

AM 2708 also strikes section 7 of the bill as amended by AM 2687, to remove language referring to racetracks enclosures licensed by the racing commission in 2013 eligibility for assistance under the Sports Arena Facility Financing Act.

Fiscal Impact:

Both the Department of Revenue and the State Racing Commission estimate the one-time licensing fee will generate \$400,000 of revenue, based on 400 devices being installed in the state, in FY2012-13.

The Department of Revenue estimates the bill, as amended by AM 1852, will generate approximately \$16,385,000 in additional gross wagering subject to the gross receipts tax in FY2012-13. This assumes that the change from "in addition to" to "in lieu of" has the same impact on revenue as the original bill. The Department indicates that they expect expanded wagering on historic horseraces to reduce current charitable gaming receipts by 15% for keno and pickle cards in counties with licensed horse tracks resulting in a decrease to the General Fund (detailed below). 60% of all keno and pickle card proceeds are credited to the General Fund and 40% goes to the Charitable Gaming Cash Fund.

The State Racing Commission estimates the bill will generate approximately \$18,000,000 in additional gross wagering subject to the gross receipts tax in FY2012-13.

We believe, given previous fiscal note calculations, that the Department's estimate of additional gross wagering best reflects the potential impact of LB 806, as amended.

The fiscal impact to the various funds is summarized below:

| Fiscal Year: | Charitable Gaming |               |
|--------------|-------------------|---------------|
|              | Cash Fund:        | General Fund: |
| FY2012-13:   | (\$ 119,000)      | (\$ 179,000)  |
| FY2013-14:   | (\$ 120,000)      | (\$ 180,000)  |
| FY2014-15:   | (\$ 121,000)      | (\$ 182,000)  |

Historic Horseracing Cash Fund:

|            | Licensing: | Gross Receipts Tax: |
|------------|------------|---------------------|
| FY2012-13: | \$ 400,000 | \$ 163,850          |
| FY2013-14: | \$ 0       | \$ 172,000          |
| FY2014-15: | \$ 0       | \$ 181,000          |

The State Racing Commission estimates they will need 1.0 FTE to carry out the provisions of LB 806 and expenditures as follows:

|            | Salary & Benefits: | Operating: | Travel:  | Total:    |
|------------|--------------------|------------|----------|-----------|
| FY2012-13: | \$ 47,575          | \$ 10,500  | \$ 4,000 | \$ 62,075 |
| FY2013-14: | \$ 47,575          | \$ 3,000   | \$ 2,000 | \$ 52,575 |

The Department of Revenue indicates minimal costs to implement the provisions of LB 806.

We find no basis to disagree with the Department of Revenue's estimate of fiscal impact or cost to implement LB 806.

We find no basis to disagree with the State Racing Commission's estimate of cost to implement LB 806.

IMPACT TO POLITICAL SUBDIVISIONS:

The Department of Revenue estimates the impact of LB 806, as amended by AM 1852, to be minimal to those counties and cities where racetrack enclosures are located.